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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,771	03/22/2004	Andrea Briatore	CM2736	1233

27752 7590 02/07/2006

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EXAMINER
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THOMAS, JAISON P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/805,771	<b>Applicant(s)</b> BRIATORE ET AL.	
	<b>Examiner</b> Jaision P. Thomas	<b>Art Unit</b> 1751	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in European Patent Office on 3/28/2003. It is noted, however, that applicant has not filed a certified copy of the 03447068 application as required by 35 U.S.C. 119(b).

### ***Claim Objections***

2. Claim 10 and 11 are objected to because of the following informalities: in line 2 of Claims 10 and 11 the word "phtalocyanine" should be spelled --phthalocyanine--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agostini (EP 0668345A1).

Agostini teaches a bleaching composition which has alkali metal hypochlorites present from 0.1 to 10% by weight of the total composition (pg. 3, lines 57-58 and pg. 4, line 1) and a radical scavenger whose structure is described in Figure (a) on pg. 4 and

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present in the composition from 0.01 to 10 % by weight of the total composition. The radical scavenger structure is described as having substituents X, Y, and Z where X, Y, and Z could be -OCH<sub>3</sub> (methoxy) groups. Further the compositions disclosed can include a variety of other optional ingredients including pigments, dyes and optical brighteners (pg. 5, lines 25-27).

Agostini, however, does not explicitly teach the use of the particular trimethoxybenzoic acids as required by the instant claims.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the trimethoxybenzoic acids as those required by the instant claims since Agostini teaches the benefit of using such acids as radical scavengers to stabilize hypohalite bleaching compositions.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Duca et al. (WO 00/27972).

Del Duca et al. teaches a bleaching composition which contains a peroxygen bleach (pg. 3, line 21), an alkoxylated benzoic acid (pg. 3, line 21), and other optional ingredients that could include brighteners, pigments and dyes (pg. 34, line 6). Del Duca et al. further teaches a composition wherein 0.01 to 30% by weight of peroxygen bleach (pg. 7, line 21), and the alkoxylated benzoic acid can be anywhere from 0.001 to 5% by weight of the composition (pg. 10, line 26). Further, the alkoxylated benzoic acid can be selected from the group consisting of 3,4,5-trimethoxy benzoic acid, 2,3,4-trimethoxy benzoic acid and 2,4,5-trimethoxy benzoic acid, or salts of each (pg. 10, lines 14-20).

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Del Duca, however, fails to disclose the use of hypohalites as bleaching agents.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the hypohalite bleach with the peroxygen bleach since Del Duca teaches the possibility of using hypohalites as bleaching agents along with benefit of using trimethoxy benzoic acid compounds disclosed for the purpose of stabilizing bleaching agents.

Even though hypohalite bleaches are not preferred due to reasons of fabric safety (pg. 8, lines 1-4), they are suggested by Del Duca and a prior art reference must be considered in its entirety, i.e., as a whole including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). In addition, a known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use, see *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994). Further, a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments, see *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), *cert denied*, 493 U.S. 975 (1989). See MPEP 2145X.D.1 and MPEP 2123.

6. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agostini or Del Duca as applied to claims 1-6 above, and further in view of Briatore et al. (WO 00/27978).

Agostini or Del Duca is relied upon as discussed above. Agostini or Del Duca, however, does not teach the use of particular brighteners and their respective proportions in the bleaching composition.

Briatore et al. teaches liquid bleaching compositions (pg. 3, line 6) which include hypohalite bleaching agents (pg. 6, line 2) that could consist of alkali metal and alkaline earth metal hypochlorites (pg. 7, lines 6-7). In addition, Briatore et al. teaches the use of brighteners in the composition wherein the brighteners can include 4,4'-bis[(4-anilino-6-morpholino-s-triazine-2-yl)amino]2,2'-stilbenedisulfonic acid, sodium salt (pg. 13, lines 19-20) and 4-4'-bis (2' styryl sulfonate) biphenyl (pg. 12, line 16) and the brighteners are present in the bleaching composition at ranges from 0.001 to 1.0 % by weight of the composition (pg. 14, line 19).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the specific brighteners disclosed by Briatore et al. into the bleaching composition of Agostini or Del Duca in their optimum proportions since Agostini or Del Duca desires the optional addition of brighteners in the bleaching composition and Briatore teaches such brighteners in a similar composition.

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agostini or Del Duca as applied to claims 1-6 above, and further in view of Argo et al. (US Patent No. 6,294,511).

Agostini or Del Duca is relied upon as discussed above. Agostini or Del Duca, however, fails to teach the particular coloring agent or pigment and their respective proportions in the bleaching composition.

Argo et al. teaches a cleaning composition that includes a halogen bleach which can include alkali metal and alkaline metal earth salts of hypohalite (Column 9, lines 41-45) and pigments such as Ultramarine Blue and copper phthalocyanine and Argo further teaches the interchangeability of these pigments. Argo, by way of example, teaches a range of 0 to 1.0% by weight of the composition of the ultramarine blue pigment in the cleaning composition (Column 11, lines 40-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the pigments taught by Argo to the bleaching composition of Agostini or Del Duca in their optimum proportions since Agostini or Del Duca desires the optional addition of pigments and dyes to the bleaching composition and Argo teaches such pigments in a similar composition.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. The references are considered cumulative to or less material than those discussed above.

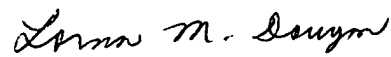
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaison P. Thomas whose telephone number is (571) 272-8917. The examiner can normally be reached on Mon-Fri 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JT,  
Jaison Thomas  
Examiner  
1/30/2006

  
LORNA M. DOUYON  
PRIMARY EXAMINER